

1 ENERGY AND ENVIRONMENT CABINET

2 Department for Environmental Protection

3 Division of Water

4 (Amendment)

5 401 KAR 8:010. Definitions for 401 KAR Chapter 8.

6 RELATES TO: KRS 223.160-223.220, 224.10-100, 224.10-110, 322, 40 C.F.R. 141.2[
7 ~~EO 2008-507, 2008-531~~]

8 STATUTORY AUTHORITY: KRS 223.160-223.220, 224.10-100(28), 224.10-110[~~EO~~
9 ~~2008-507, 2008-531~~]

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(28) and 224.10-
11 110(2) require the cabinet to promulgate administrative regulations for the regulation and control
12 of the purification of water for public and semipublic use.[~~EO 2008-507 and 2008-531, effective~~
13 ~~June 16, 2008, abolish the Environmental and Public Protection Cabinet and establish the new~~
14 ~~Energy and Environment Cabinet.~~] This administrative regulation establishes the definitions for
15 terms used by the cabinet in 401 KAR Chapter 8.

16 Section 1. Definitions. Except as provided in this section, the definitions established in 40
17 C.F.R. 141.2 shall apply. (1) "Board" means the Kentucky Board of Certification of Water
18 Treatment Plant and Water Distribution System Operators as established by KRS 223.170.

19 (2) "Boil water advisory" means a type of consumer advisory that provides notice to the
20 consuming public through radio, television, direct mail, electronic mail, posting, newspaper, or

other media and that conveys in the quickest and most effective manner possible:

(a) Information that water provided by a system ~~might~~may cause adverse human health effects due to possible biological contamination if consumed, unless it is first boiled for three (3) minutes at a rolling boil; and

(b) What action the public is advised to take.

(3) "Bottled water" means water that is:

(a) From an approved bottled water treatment plant as established in 401 KAR 8:700;

(b) Placed in a sealed container or package; and

(c) Offered for human consumption or other consumer uses.

(4) "Bottled water system":

(a) Means a public water system that provides bottled drinking water and includes the sources of water, and treatment, storage, bottling, manufacturing, or distribution facilities; and

(b) Does not mean~~[- The term excludes]~~:

1.[(a)] A public water system that provides only a source of water supply for a bottled water system; or

2.[and (b)] An entity providing only transportation, distribution, or sale of bottled water in sealed bottles or other sealed containers.

(5) "Bottled water treatment plant" means a facility that provides the product water used for bottled water by processing water from an approved source as established in 401 KAR Chapter 8.

(6) "Bypass" means a physical arrangement whereby water can~~may~~ be diverted around a feature of the purification process of a public or semipublic water supply.

(7) "Certificate" means a certificate of competency issued by the cabinet stating that the

operator has met all requirements for the specified operator classification as established by 401 KAR Chapter 8.

(8) "Certified laboratory" means a laboratory:

(a)[~~A laboratory~~] For which the physical, instrumental, procedural, and personnel capabilities have been approved by the U.S. Environmental Protection Agency or the cabinet pursuant to 401 KAR 8:040 and 40 C.F.R. 141 and 142; and

(b) That is certified for one (1) or more types of the contaminants listed or for one (1) or more of the specific constituents or combinations of constituents listed in 401 KAR Chapter 8.

(9) "Certified operator" means an individual who holds an active certificate.

(10) "Community water system" is defined by 40 C.F.R. 141.2.

(11) "Consumer advisory" means a notice to the consuming public through radio, television, direct mail, electronic mail, posting, newspaper, or other media to convey in the quickest and most effective manner possible:

(a) Information that water provided by a system might[~~may~~] cause adverse human health effects if consumed and what action the public is advised to take; or

(b) Other information that the public needs to know about its water.

(12) "Contaminant group" means all of the constituent members that collectively comprise the individual bacteriological, inorganic chemical, organic chemical, radiological, volatile organic chemical, synthetic organic chemical, or secondary contaminant groups regulated by 401 KAR Chapter 8.

(13) "Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

(14) "Cross connection" means a physical connection or arrangement between two (2) otherwise separate systems, one (1) of which contains potable water and the other being either water of unknown or questionable safety, or steam, gas, or chemicals, whereby there can~~may~~ be flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

(15) "Direct responsible charge" means personal, first hand responsibility to conduct or actively oversee and direct procedures and practices necessary to ensure that the drinking water treatment plant or distribution system is operated in accordance with accepted practices and with KRS Chapter 223 and 401 KAR Chapters 8 and 11.

(17) "Mineral water" means bottled water that contains not less than 250 parts per million total dissolved solids.

(18) "NTU" means nephelometric turbidity unit.

(19) "Operator" means a person involved in the operation of a drinking water treatment plant or distribution system.

(20) "Private water supply" means a residential water supply located on private property for the use of one (1) to three (3) residential households.

(21) "Product water" means the water processed by a bottled water treatment plant that is used for bottled drinking water.

(22) "Professional engineer" means an engineer who is licensed as a professional engineer in Kentucky, pursuant to KRS Chapter 322.

(23) "Secondary contaminant" means a contaminant that does not, in general, have a direct impact on the health of consumers but its~~whose~~ presence in excessive quantities can~~may~~ discourage the utilization of drinking water or discredit the supplier.

1 (24) "Secondary standard" means the maximum contaminant level for a secondary
2 contaminant.

3 (25) "Semipublic water system" means a water system made available for drinking or
4 domestic use that does not qualify as a private or public water system.

5 (26) "Submeter" means the use by a property owner or operator of meters that measure
6 water used by tenants for the purpose of passing costs charged by a public water system from the
7 property owner or operator to tenants based on tenants' actual water usage.

8 (27) "Supplier of water" means the owner or operator of~~a person who owns or operates~~
9 a public water system.

10 (28)~~(27)~~ "Surface water" means water that is open to the atmosphere and subject to
11 surface runoff, or groundwater under the direct influence of surface water.

12 (29)~~(28)~~ "Surface water source" means ponds, reservoirs, streams of all sizes, free-
13 flowing springs, a source of water supply for a public water system that has a free water surface
14 exposed to the atmosphere, or groundwater under the direct influence of surface water.

15 (30)~~(29)~~ "System" means a public water system.

16 (31)~~(30)~~ "Turbidity" means the presence of suspended particulates, including sand, silt,
17 clay, finely divided organic or inorganic matter, plankton or other microscopic organisms, or
18 elements that optically interfere with the clarity of liquid.

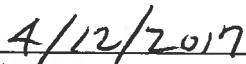
19 (32)~~(31)~~ "Water distribution system" means the portion of the public water system in
20 which~~that~~ water is conveyed from the water treatment plant or other supply point to the
21 premises of a consumer, or a system of piping and ancillary equipment that~~which~~ is owned and
22 operated by an established water system independent of the water supply system from which
23 potable water is purchased.

1 (33)~~(32)~~ "Water supply system" means the source of supply and all structures and
2 appurtenances used for the collection, treatment, storage, and distribution of water for a public or
3 semipublic water system.

4 (34)~~(33)~~ "Water treatment plant" or "purification plant" means that portion of the water
5 supply system that is designated to alter the physical, chemical, or bacteriological quality of the
6 water prior to entry to the water distribution system.

401 KAR 8:010 Definitions is approved for filing.


Charles G. Snavely, Secretary
Energy and Environment Cabinet


Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Thursday, May 25, 2017 at 6:00 p.m. Eastern Time at the Department for Environmental Protection, Training Room C, 300 Sower Boulevard, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by 5 workdays prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through May 31, 2017. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation, to the contact person.

Contact person: Carole J. Catalfo
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Division of Water, 3rd Floor
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Frankfort, Kentucky 40601
Phone (502) 564-3410
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Email: water @ky.gov (Subject line: "Chapter 8 regulations")

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

401 KAR 8:010

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides definitions for 401 KAR Chapter 8.

(b) The necessity of this administrative regulation: Definitions clarify certain terminology for the regulated community.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110(2) authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use, which are regulated under 401 KAR Chapter 8.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides definitions for 401 KAR Chapter 8 to clarify terms for the regulated community.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment adds a definition for "submetering".

(b) The necessity of the amendment to this administrative regulation: The additional definition clarifies what constitutes the practice of "submetering".

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 224.10-100(28) and 224.10-110(2) authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use, which are regulated under 401 KAR Chapter 8. This administrative regulation clarifies terms used throughout 401 KAR Chapter 8.

(d) How the amendment will assist in the effective administration of the statutes: The additional definition clarifies what constitutes the practice of "submetering".

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The types of businesses that may use submetering are multi-unit apartment dwellings, mobile home parks, and condo and home

owners associations. The number of submetered systems is unknown. There are 436 public water systems, and 52 semipublic water systems. Public water systems are often owned by city governments or organized under county governments. Other districts may, in some cases, have a water system.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This administrative regulation contains definitions; there are no substantive requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This administrative regulation contains definitions; there are no associated costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Affected entities will be better able to understand the terms used throughout 401 KAR Chapter 8.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This amendment will not result in additional costs.

(b) On a continuing basis: This amendment will not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Division of Water uses federal funds to administer the federal Safe Drinking Water Act.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? (Explain why or why not) No. This regulation contains definitions that do not require tiering.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

401 KAR 8:010

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
Email: water@ky.gov (Subject Line: "Chapter 8 regulations")

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? State and local governments will not be affected.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(28) and 224.10-110(2).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There will be no effect on state or local governments.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? There will be no additional costs.

(d) How much will it cost to administer this program for subsequent years? There will be no additional costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: This administrative regulation contains definitions for 401 KAR Chapter 8. It will not incur costs or generate revenue.

FEDERAL MANDATE ANALYSIS COMPARISON

401 KAR 8:010

Contact Person: Carole J. Catalfo
Phone: (502) 782-6914
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1. Federal statute or regulation constituting the federal mandate. There is no federal mandate to provide a definition for "submetering".
2. State compliance standards. KRS 224.10-100, 224.10-110
3. Minimum or uniform standards contained in the federal mandate. There is no federal mandate to provide a definition for "submetering". However, the federal Safe Drinking Water Act, for which Kentucky has primacy and of which the administrative regulations in 401 KAR Chapter 8 are a part, is federally mandated.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? There is no federal mandate to provide a definition for "submetering". However, the federal Safe Drinking Water Act, for which Kentucky has primacy and of which the administrative regulations in 401 KAR Chapter 8 are a part, is federally mandated.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. There is no federal mandate to provide a definition for "submetering". However, the federal Safe Drinking Water Act, for which Kentucky has primacy and of which the administrative regulations in 401 KAR Chapter 8 are a part, is federally mandated.